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INFORMATION ALERT

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The new European architecture for air transport claims: implications for airlines following the reform of Regulation (EC) No 261/2004

The reform of Regulation (EC) No 261/2004 entails far more than a review of passengers' substantive rights to compensation and assistance. One of the most significant changes, and probably the one with the greatest operational impact on airlines, is the creation of a harmonised European claims procedure, aimed at reducing the existing fragmentation between Member States and strengthening the uniform enforcement of the passenger rights laid down in Regulation (EC) No 261/2004.

The reform is therefore intended to turn Regulation (EC) No 261/2004 into a measure that is not only substantive but also procedural. This development centres on a number of amendments expressly governing interaction between passengers and carriers in the handling of claims, establishing a clear and uniform claims pathway for all carriers operating under the same regulatory framework.

The new uniform rules on the claims procedure under Regulation (EC) No 261/2004 are supplemented by rules clarifying how requests for monetary compensation are to be made and handled, and by strengthened obligations on airlines to provide passengers with information on how to submit compensation requests and on the claims-handling procedure.

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1. REQUESTS FOR COMPENSATION

Article 7 of Regulation (EC) No 261/2004, concerning the right to compensation in the event of cancellation, long delay or denied boarding, has been amended to regulate, among other matters, the request for compensation to be submitted by the passenger to the air carrier.

It should be recalled that the amounts of compensation laid down in Regulation (EC) No 261/2004 have not been amended: EUR 250, EUR 400 or EUR 600, depending on the distance and, where applicable, whether the flight itinerary is intra-Community or extra-Community.

a) Automatic information to passengers on their right to compensation (Article 7(4))

The reform introduces, in the new paragraph 4 of that Article, an obligation to inform passengers automatically, within 96 hours after the conclusion of the flight, by electronic means and on a durable medium, of any right to compensation to which they may be entitled under the Regulation. That communication must provide specific instructions on the procedure for requesting compensation laid down in the new Article 7(9), discussed below.

b) Procedure for requesting compensation (Article 7(9))

One of the most significant changes introduced by the reform is the express regulation, in the new Article 7(9), of the request for compensation, understood as the first express request made by a passenger affected by a disruption. It may therefore constitute a step preceding the commencement of the claim's procedure, enabling disputed-free matters to be resolved swiftly. A literal and systematic reading of the provision suggests that this specific regime is limited to requests for compensation under Article 7 (Right to compensation). By contrast, the Regulation does not lay down the same detailed rules for an initial request concerning other pecuniary rights,



such as reimbursement of the ticket price or reasonable expenses incurred for alternative transport or assistance.

A joint reading of Articles 5(5), 6(4) and 6b(3), together with the new Articles 7(4) (the obligation to provide information on the right to compensation; see above) and 7(9), confirms that the right to compensation in the event of flight cancellation, long delay or tarmac delay requires an express request by the passenger once the disruption giving rise to that right has occurred.

By contrast, in the event of denied boarding, Article 4 of the Regulation (unlike the other provisions) does not refer to a 'request' for compensation, but to the carrier's duty to pay compensation *without undue delay and at the latest within seven calendar days of the denied boarding*. Accordingly, in that case entitlement to compensation is not even conditional upon a request by the passenger: payment must be made within that period to passengers denied boarding against their will, and even to a volunteer unless their explicit approval, recorded on a durable medium, to replace compensation with other benefits offered by the carrier is available.

The new Article 7(9) provides that requests for compensation 'shall be submitted'. Where the compensation provided for in the Regulation is requested, passengers may submit their request within nine months of the actual date of departure of the flight stated on the ticket.

The establishment of an apparently mandatory time limit for submitting the request for compensation suggests that the legislature has introduced a limitation period after which the passenger could lose the right to obtain compensation from the carrier.

However, we consider that this issue will be subject to interpretation by enforcement bodies and the courts, since the reform also appears to treat the submission of complaints under Article 15a as voluntary for the passengers. Recitals 38 and 39 likewise state that the submission of requests and complaints, and the referral of



disputes to out-of-court resolution bodies, should neither prevent nor hinder passengers' access to the courts.

Once a request for compensation has been submitted, the carrier must immediately issue an acknowledgement of receipt to the passenger on a durable medium. Where the request is submitted not by a passenger but by a third party acting on the passenger's behalf, the carrier may require proof of valid authorization to act.

The new rules give the carrier 30 calendar days to decide on the request. The decision may either (1) accept that the requested compensation is due and make payment, or (2) provide the passenger with a justification for not paying the compensation. In the latter case, the carrier must inform the passenger of the possibility of initiating the complaint process provided for in the new Article 15a of the Regulation.

In addition, where the carrier refuses the requested compensation invoking on the ground that the disruption was caused by an extraordinary circumstance relieving it of the obligation to pay, it must specify the particular circumstance invoked (whether one listed in the new Annex to the Regulation or another duly identified circumstance) and provide a reasoned ('clear and substantiated') explanation of how that circumstance meets the condition on direct causal link of the disruption and why reasonable measures could not have been taken to avoid it.

2. COMPLAINTS

The reform introduces a new complaint handling process in Article 15a, with a view to harmonizing the pathways established by carriers and ensuring that the procedure is available to passengers in a clear and accessible manner.

Article 15a shows that this complaint handling process is not confined to compensation following a possible refusal of a request by the carrier (see above), but extends to any passenger complaint concerning the rights and obligations laid down in Regulation (EC) No 261/2004.



This complaint handling process is accompanied by information duties imposed on airlines so that passengers can make use of it.

a) Information on the complaint handling process

Before the reform, Article 14 of Regulation (EC) No 261/2004 governed the information duties imposed on airlines to ensure that passengers had an effective opportunity to exercise their rights to compensation and assistance.

Following the reform, Article 14(1) expressly provides that the information notice made available on the airline's website and mobile application concerning passenger rights must include information on the complaint handling process. The carrier must also inform passengers specifically affected by denied boarding, cancellation or delay of the complaints-handling procedure (see Articles 4(4), 5(1) and 6(1)).

Similarly, pursuant to Article 14(2), when offering tickets for a flight and before purchase, the carrier must provide passengers with information on, among other matters, complaint handling and reimbursement processes.

b) Complaint process

As noted above, the complaint handling process is governed by the new Article 15a. Under that provision, passengers may submit a complaint within the following time limits: (1) within 12 months from the date on which the flight was performed or was scheduled to be performed, or (2) within three months after submitting the request for compensation, if that date is later.

From receipt of the complaint, the carrier must acknowledge receipt within seven working days. After examining the case and reviewing the documentation, the carrier has a maximum of one month to decide the complaint, either upholding or rejecting it, by means of a reasoned decision. Only where duly justified may that response



period be extended to 'less than two months, and the passenger must be informed accordingly.

Together with the decision notified to the passenger, the carrier must provide the details of the competent out-of-court dispute-resolution body to which the matter may be referred. Alternatively, the carrier may refer to the list of bodies published by the Commission (in Spain, the Spanish Aviation Safety and Security Agency, "AESA").

As indicated above, the reform appears to treat the submission of complaints as voluntary for passengers, as is the referral of disputes to out-of-court dispute-resolution bodies. Recitals 38 and 39 recall that the right to an effective remedy is a fundamental right in the European Union; accordingly, those procedures and avenues of redress must not prevent or hinder passengers' access to the courts.

3. IMPLICATIONS FOR AIRLINES

The procedures introduced by the reform require carriers to update their channels of communication with passengers. In particular, airlines must have accessible complaints procedures and systems capable of acknowledging receipt of requests and complaints within the prescribed time limits.

This will require a review of their forms, mobile applications and customer-service channels. In Spain, that review must be implemented in conjunction with the new requirements already introduced by *Law 10/2025 of 26 December regulating customer care services*, which also applies to airlines. Nevertheless, in the event of a conflict between the two sets of rules, we consider that the provisions of Regulation (EC) No 261/2004, as amended, take precedence, not only by virtue of the primacy of European Union law, but also because Law 10/2025 itself gives preference to sector-specific legislation, while applying on a supplementary basis to matters not governed by such legislation (see Article 2(4)).



Since the airline bears the burden of proving compliance with these new obligations and it has made appropriate means of access to these procedures available to passengers, this must be evidenced on a durable medium that includes the date and time.

From an organizational standpoint, the quality of the replies required by the Regulation will call for effective coordination between customer service, flight operations, legal departments, *compliance*, airport management and external service providers, since the information needed to substantiate a reply may originate in any of those areas.

4. CONCLUSIONS

The reform of Regulation (EC) No 261/2004 represents a significant change to carriers' internal claims procedures. The European system is no longer focused exclusively on substantive rights to compensation and assistance but now develops detailed rules on procedures for requesting compensation and submitting complaints in matters falling within the scope of Regulation (EC) No 261/2004.

For airlines, the principal challenge will not merely be compliance with the new time limits, but the implementation of processes and a culture of enhanced traceability, documentation and reason-giving in decisions. Carriers that adapt their internal systems at an early stage will be better placed to reduce litigation, deal with ADR proceedings and successfully defend complex claims.

In the medium term, procedural harmonisation could yield significant benefits in terms of regulatory predictability and lower costs arising from the fragmentation of national rules.

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